

FILED

MAY - 4 1999

UNITED STATES DISTRICT COURT
Northern District of Texas

ORDER STRIKING/UNFILING PLEADING

NANCY DOHERTY, CLERK

The Clerk, having identified a defect in the form of the document indicated below, and the Court, having independently determined that the document should be stricken, it is ordered that the document be stricken from the record of this case. The Clerk is hereby directed to unfile and return this document to the party who filed it.

May 4, 1999
DATE

George Buchmeyer
JUDICIAL OFFICER

NOTICE OF DEFICIENCY

Nancy Doherty
Clerk of Court

Judge: Buchmeyer Date: 5-4-99
Case Number: 3:99cv381-R Plaintiff: E'Lite Optik Inc.
Deputy Clerk: Al. DuPue Telephone Number: 753-2176

A(n) Motion to Dismiss & Brief has been filed by
Defendants and is considered deficient in the areas(s) noted below:

1. A summons must be filed with the complaint. See LR 3.1(b).
2. A civil cover sheet must be filed with the complaint. See LR 3.1(c).
3. The document(s) must be in proper form. See LR 10.1.
4. The signature of the attorney of record or the party proceeding *pro se* is required on each document filed. See F.R.C.P. 11.
5. A completed certificate of service as defined in F.R.C.P. 5(d) is required.
6. Each separate document contained therein must be identified. See LR 5.1(c).
7. The motion must comply with LR 7.1 by including:
 - a. certificate of conference or inability to confer
 - b. brief in support of motion (maximum of 25 pages)
 - c. proposed order
 - d. copy of the proposed amended pleading with motion for leave to amend
8. A motion for continuance must be signed by the party as well as by the attorney of record. See LR 40.1.
9. Any out-of-district attorney applying for *pro hac vice* status must affirm in writing that he/she has read and will comply with Dondi Props. Corp. v. Commerce Sav. & Loan Ass'n, 121 F.R.D. 284 (N.D. Tex. 1988) (en banc) and the Local Rules. See LR 83.9(b).
10. Additional copies are required. See LR 5.1(b).
11. The attorney filing the pleading is not admitted to practice in this district. See LR 83.7.
12. Other Should be submitted as Joint Motion Submission. Movant must notify non-movant that this has been returned for joint motion submission.

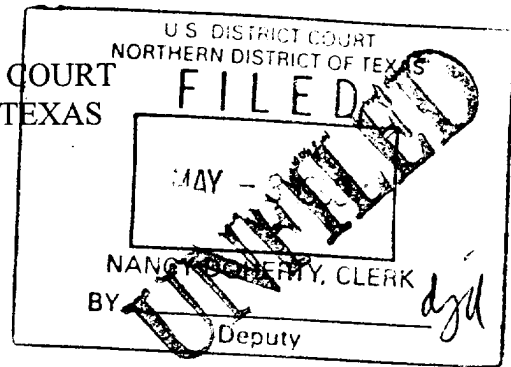
ENTERED ON DOCKET

MAY - 5 1999

U.S. DISTRICT CLERK'S OFFICE

ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



E'LITE OPTIK, INC.,

Plaintiff,

v.

CONTOUR OPTIK, INC. and
CHIC OPTIC, INC.,

Defendants.

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CIVIL ACTION NO. 3:99-CV-0381-R

DEFENDANTS' MOTION TO DISMISS AND BRIEF IN SUPPORT THEREOF

TO THE HONORABLE COURT:

Defendants move to dismiss this action for:

- (1) lack of jurisdiction over the person of defendants, and
- (2) insufficiency of service of process, and show as follows:

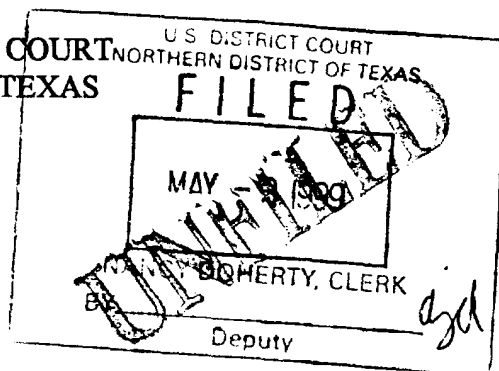
Factual Background

Defendant Contour Optik, Inc. ("Contour") is a corporation organized under the laws of the Republic of China (Taiwan). (Chao Declaration at ¶ 2)¹ Defendant Chic Optik, Inc. ("Chic") is a corporation organized under the laws of Canada. (Sam Declaration at ¶ 2) Defendants do not have any offices in Texas, and defendants do not own or lease any real or personal property in Texas.

¹ The original declaration of David Chao is being sent to Dallas from Taiwan and will be filed as soon as it is received by defendants' counsel. A facsimile copy of the original declaration of David Chao is attached to the declaration of Craig W. Weinlein, counsel for defendants.

ORIGINAL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



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ELITE OPTIK, INC.,)

Plaintiff,)

v.)

CONTOUR OPTIK, INC. and)
CHIC OPTIC, INC.,)

Defendants.)
-----X

CIVIL ACTION NO. 3:99-CV-0381-R

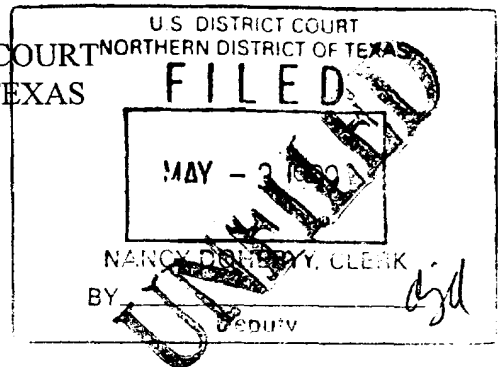
DECLARATION OF JEAN-PIERRE SAM

I, Jean-Pierre Sam, declare and state as follows:

1. I am the Controller of Chic Optic, Inc.
2. Chic Optic is a Canadian corporation, organized under the laws of Canada with a place of business at 600 Peel Street, Montreal, Quebec, Canada.
3. The company is engaged in the sale and distribution of eyewear. The company was founded in Canada in 1982. Chic Optic's sales activities are conducted almost exclusively throughout Canada.
4. Of the very small portion of our business that is export sales outside of Canada, the only sales made to the United States by Chic are our sales to the company Aspex Eyewear, Inc.,

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Defendants.

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CIVIL ACTION NO. 3:99-CV-0381-R

DECLARATION OF CRAIG W. WEINLEIN

I, Craig W. Weinlein, declare as follows:

1. My name is Craig W. Weinlein. I am over eighteen years of age, and I am fully competent to make this declaration.
2. I am an attorney licensed to practice law in the State of Texas, and I am admitted to practice in the United States District Court for the Northern District of Texas. I am one of the counsel of record for defendants Contour Optik, Inc. and Chic Optic, Inc. in the above-referenced action.
3. Attached hereto is a facsimile copy of the declaration of David Chao. I expect to receive the original declaration of David Chao shortly, and I will file the original declaration with the Court as soon as I receive it from Taiwan.